IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1802 OF 2004
IN
INCOME TAX APPEAL (L)NO.488 OF 2004

Commissioner of Income Tax ..Applicant

Vs.

M/s.Arabian Exports Ltd. ..Respondent

Mr.A.D.Kango for the Applicant.
Mr.Nishant Thakker i/b.Mulla & Mulla for
the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.
DATE : 26TH JUNE, 2007

P.C.

1. Heard the learned Counsel for the parties. By this Notice of Motion, the Applicant is seeking condonation of 378 days delay in filing the above Appeal against the order dated 7th November,2002 passed by the Income Tax Appellate Tribunal. The last date for filing the above Appeal was 16th April,2003, by which date, even the Scrutiny Report was not called for and from the additional affidavit-in-support of the Notice of Motion, it appears that the file was sent to Law Ministry on 2nd May,2003 for drafting the Memo of Appeal and the Memo of Appeal was received on 21st April,2004 i.e. almost after 11 months. There is no explanation with regard to the aforesaid delay. In view thereof, we are not inclined to condone the delay in filing the above Appeal. Hence, the Notice of Motion stands dismissed.

2. In view of the dismissal of the Notice of Motion, the above Appeal does not survive. Hence, the same stands dismissed.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**